

1 Ethan Jones, WSBA No. 46911  
 2 Anthony Aronica, WSBA No. 54725  
 3 Yakama Nation Office of Legal Counsel  
 4 P.O. Box 150 / 401 Fort Road  
 5 Toppenish, WA 98948  
 (509) 865-7268  
 ethan@yakamanation-olc.org  
 anthony@yakamanation-olc.org

6 Attorneys for the Confederated Tribes and  
 7 Bands of the Yakama Nation

8 **UNITED STATES DISTRICT COURT**  
 9 **EASTERN DISTRICT OF WASHINGTON**

10  
 11 CONFEDERATED TRIBES AND  
 12 BANDS OF THE YAKAMA  
 13 NATION, a sovereign federally  
 14 recognized Indian Tribe,

15 v. Plaintiff,

16 CITY OF TOPPENISH, a  
 17 municipality of the State of  
 Washington

18 Defendant.

Case No.:

YAKAMA NATION'S  
 COMPLAINT FOR  
 DECLARATORY AND  
 INJUNCTIVE RELIEF

19 Plaintiff, Confederated Tribes and Bands of the Yakama Nation ("Yakama  
 20 Nation"), signatory to the Treaty with the Yakamas of June 9, 1855, 12 Stat. 951,  
 21 alleges as follows:

22 **1. INTRODUCTION**

23 1.1 This complaint concerns Defendant City of Toppenish's attempt to stop  
 24 the Yakama Nation from exercising its inherent, Treaty-reserved sovereign authority  
 25 to operate a 24-hour emergency cold weather shelter for unhoused Yakama Members  
 26

YAKAMA NATION'S COMPLAINT FOR  
 DECLARATORY AND INJUNCTIVE RELIEF — 1

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1 and all other community members in need of emergency shelter services within the  
2 City of Toppenish and the Yakama Reservation.

3 1.2 On November 18, 2024, the City of Toppenish issued a letter that  
4 purports to prevent the Yakama Nation from operating a 24-hour emergency cold  
5 weather shelter in the City of Toppenish within the Yakama Reservation.

6 1.3 When the Yakama Nation executed the Treaty with the Yakamas of  
7 June 9, 1855, 12 Stat. 951 (hereafter, the “Treaty of 1855”), it reserved inherent  
8 sovereign jurisdiction over its members and its lands, including the continued right  
9 to exercise civil jurisdiction over nonmembers on non-Indian owned fee lands as  
10 necessary to maintain the political integrity, economic security, and health and  
11 welfare of the Yakama Nation. The Yakama Nation’s sovereign and Treaty rights  
12 cannot be diminished by state laws or regulations.

13 1.4 Defendant’s attempts to frustrate the Yakama Nation’s exercise of civil  
14 jurisdiction and enforce the City of Toppenish municipal code against the Yakama  
15 Nation violates the Yakama Nation’s inherent sovereign authority and Treaty-  
16 reserved rights to govern its lands and its people, as well as applicable federal law.

17 1.5 Accordingly, this Court should (a) declare Defendant’s regulatory  
18 attempts under the City of Toppenish Municipal Code improper and unlawful, and  
19 (b) enjoin Defendant from taking any unlawful enforcement actions against the  
20 Yakama Nation or any other entity in a manner that frustrates the Yakama Nation’s  
21 ability to protect its unhoused Yakama Nation Members.

## 22 2. JURISDICTION AND VENUE

23 2.1 The Court has jurisdiction over this action pursuant to 28 U.S.C. §§  
24 1331 and 1332, and under federal common law because the Yakama Nation, as a  
25 sovereign and federally recognized Nation, asserts claims arising under the Yakama  
26

1 Nation's inherent sovereign power reserved by the Treaty of 1855.

2 2.2 The Court has jurisdiction to grant the declaratory relief sought  
 3 pursuant to 28 U.S.C. 2201, and other relief—including injunctive relief—sought  
 4 pursuant to 28 U.S.C. 2202.

5 2.3 Venue is proper in this District pursuant to 28 U.S.C. 1391(b) because  
 6 all Defendants are residents of the State of Washington and a substantial part of the  
 7 events or omissions giving rise to the claim occurred within this judicial District.

8 **3. PLAINTIFF**

9 3.1 The Yakama Nation is a sovereign, federally recognized Indian Tribe  
 10 pursuant to the Treaty of 1855. The Yakama Nation exercises its inherent  
 11 sovereign and Treaty-reserved authority and jurisdiction both within and beyond  
 12 the exterior boundaries of the Yakama Reservation.

13 **4. DEFENDANT**

14 4.1 Defendant City of Toppenish is a municipality of the State of  
 15 Washington.

16 **5. FACTUAL BACKGROUND**

17 5.1 The Yakama Nation is a sovereign, federally recognized Native  
 18 Nation with inherent sovereign and Treaty-reserved rights pursuant to the Treaty of  
 19 1855.

20 5.2 The Yakama Nation's civil authority within the Yakama Reservation  
 21 extends to nonmember conduct on non-Indian owned fee lands that threatens or  
 22 has some direct effect on the political integrity, the economic security, or the health  
 23 or welfare of the tribe.

24 5.3 The Yakama Nation is comprised of over 11,000 enrolled members,

1 some of whom are unhoused in the City of Toppenish.

2 5.4 Each fall and winter, the Yakama Reservation experiences a drop in  
3 temperatures and an increase in precipitation that threaten the health and safety of  
4 unhoused Yakama Members and nonmembers alike.

5 5.5 The Yakama Nation Tribal Council is concerned about the threat that  
6 these extreme weather conditions will pose to unhoused Yakama Members and  
7 nonmembers within the Yakama Reservation.

8 5.6 During the winter of 2023-2024, the Yakama Nation operated a 24-  
9 hour emergency cold weather shelter at a Yakama Nation-owned facility just  
10 outside the Toppenish City Limits. That facility's plumbing failed, and it is not  
11 available to serve as a 24-hour emergency cold weather shelter during the 2024-  
12 2025 winter.

13 5.7 On September 10, 2024, the Yakima County Board of County  
14 Commissioners awarded a \$250,000 grant to the Yakama Nation to provide low  
15 barrier emergency shelter services to assist individuals experiencing homelessness  
16 in resolving their housing instability.

17 5.8 The Yakama Nation obtained the consent of the Yakima Valley  
18 Farmworkers Clinic to open the Yakama Nation's 24-hour emergency cold weather  
19 shelter, known as the Iniitnu't Cold Weather Shelter, at a building located at 501  
20 West 1st Avenue, Toppenish, WA 98948 and owned by the Yakima Valley  
21 Farmworkers Clinic in the City of Toppenish within the Yakama Reservation.

22 5.9 The property owned by the Yakima Valley Farmworker Clinic was  
23 reserved in the Treaty of 1855 for the exclusive use and benefit of the Yakama  
24 Nation and passed out of the Yakama Nation's ownership during the Allotment Era  
25 at the turn of the 20th century. The property remains within the exterior

1 boundaries of the Yakama Reservation and is therefore Indian Country subject to  
2 the Yakama Nation's jurisdiction.

3       5.10 On October 21, 2024, Yakama Nation Tribal Council Members and  
4 Yakama Nation Staff presented to a Toppenish City Council Committee at  
5 Toppenish City Hall concerning the Yakama Nation's plan to open a 24-hour  
6 emergency cold weather shelter. The goal of the presentation was to address any  
7 concerns that the City of Toppenish may have with the 24-hour emergency cold  
8 weather shelter. The Toppenish City Council Committee passed a motion to refer  
9 the matter to the full Toppenish City Council.

10      5.11 On October 28, 2024, Yakama Nation Tribal Council Members and  
11 Yakama Nation Staff presented to the Toppenish City Council at Toppenish City  
12 Hall concerning the Yakama Nation's plan to open a 24-hour emergency cold  
13 weather shelter. The goal of the presentation was to address any concerns that the  
14 City of Toppenish may have with the 24-hour emergency cold weather shelter. The  
15 Toppenish City Council did not support or oppose the 24-hour emergency cold  
16 weather shelter.

17      5.12 On November 1, 2024, Yakama Nation Tribal Council Members and  
18 representatives of the Toppenish City Council met at the Yakama Nation's  
19 Headquarters to discuss the 24-hour emergency cold weather shelter.  
20 Representatives of the Toppenish City Council did not state their formal support or  
21 opposition to the 24-hour emergency cold weather shelter.

22      5.13 On November 4, 2024, a Yakama Nation Staff Attorney visited  
23 Toppenish City Hall and spoke to a public works employee to identify any  
24 concerns that the City had with the 24-hour emergency cold weather shelter. The  
25 public works employee stated that she was not able to share information absent a  
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1 decision from the Toppenish City Council.

2 5.14 On November 7, 2024, the Yakama Nation Tribal Council passed a  
3 Tribal Council Resolution authorizing the operation of a 24-hour emergency cold  
4 weather shelter at the Yakima Valley Farmworkers Building within the City of  
5 Toppenish and the Yakama Reservation.

6 5.15 This Tribal Council Resolution represents an exercise of the Yakama  
7 Nation's inherent sovereign and Treaty-reserved civil authority to regulate  
8 nonmembers (in this case the Yakima Valley Farmworkers Clinic) on fee property  
9 within the Yakama Reservation (the Yakima Valley Farmworkers Building) to  
10 provide for the health and safety of enrolled Yakama Members, and by extension  
11 the political integrity, health, and welfare of the Yakama Nation.

12 5.16 Between November 7, 2024 and November 20, 2024, Yakama Nation  
13 Staff worked diligently to prepare the Yakima Valley Farmworkers Building to be  
14 used as a 24-hour emergency cold weather shelter.

15 5.17 On November 15, 2024, the Yakama Nation sent a letter to the City of  
16 Toppenish announcing the Yakama Nation's intent to open the 24-hour emergency  
17 cold weather shelter at the Yakima Valley Farmworkers Building in the City of  
18 Toppenish.

19 5.18 On November 18, 2024, the Toppenish City Manager, Mr. Dan Ford,  
20 sent a response letter to the Yakama Nation disputing the Yakama Nation's ability  
21 to operate a cold weather shelter within the City of Toppenish for anything in  
22 excess of 6 hours per day, and expressing health and safety concerns with the  
23 Yakima Valley Farmworkers Building.

24 5.19 On November 19, 2024 and November 20, 2024, the Yakama  
25 Reservation experienced rainfall, snowfall, and temperatures below freezing. The  
26

1 10-day weather forecast predicts rain and nightly temperature forecasts near or  
2 below freezing.

3 5.20 At 8:00 am on November 20, 2024, the Yakama Nation opened its 24-  
4 hour emergency cold weather shelter at the Yakima Valley Farmworkers Building.

5 5.21 At 12:14 pm on November 20, 2024, the Yakama Nation sent a  
6 response letter to the City of Toppenish confirming that the Yakama Nation has  
7 opened the emergency cold weather shelter and would operate the shelter 24-hours  
8 per day. The Yakama Nation also invited a meeting with the City of Toppenish to  
9 discuss the City's health and safety concerns.

10 5.22 After sending the response letter, the Yakima Valley Farmworkers  
11 Clinic contacted the Yakama Nation by phone, text message, and email. The  
12 Yakima Valley Farmworkers Clinic expressed that they had spoken to the City of  
13 Toppenish and were prohibited by the City from allowing the Yakama Nation to  
14 operate a 24-hour cold weather shelter until the Yakama Nation and City reached  
15 some other resolution.

16 5.23 The City of Toppenish's actions directly threaten the health and safety  
17 of enrolled Yakama Members, and therefore threaten the political integrity, health,  
18 and welfare of the Yakama Nation.

19 5.24 The City of Toppenish's actions to prevent the Yakama Nation from  
20 authorizing the Yakima Valley Farmworkers Clinic to host a 24-hour emergency  
21 cold weather shelter for enrolled Yakama Members (along with any other  
22 individuals who need shelter services) unlawfully violate the Yakama Nation's  
23 exercise of civil jurisdiction, thereby depriving the Yakama Nation of the full  
24 benefit of its inherent sovereignty and the rights reserved in the Treaty of 1855.

25 5.25 The City of Toppenish's actions pose an imminent threat of harm to  
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1 the Yakama Nation and its Members.

2 **6. FIRST CLAIM FOR RELIEF**

3 (Violation of the Treaty with the Yakamas of June 9, 1855)

4 6.1 The Yakama Nation hereby incorporates and reasserts all prior  
5 allegations by reference.

6 6.2 The Treaty of 1855 is the supreme law of the land under the  
7 Supremacy Clause of the United States Constitution. U.S. Const. art. VI, cl. 2.

8 6.3 States, and by extension municipalities, cannot assert civil jurisdiction  
9 over the conduct or property of non-Indians in Indian Country if it would cause  
10 interference with tribal self-government, or a conflict with federal laws and  
11 policies. Cohen's Handbook of Federal Indian Law § 6.01(1) (2012).

12 6.4 Pursuant to its inherent sovereign rights reserved in the Treaty with  
13 the Yakamas of June 9, 1855 (12 Stat. 951), the Yakama Nation regulates  
14 nonmember conduct on non-Indian owned fee lands within the Yakama  
15 Reservation where the "conduct threatens or has some direct effect on the political  
16 integrity, the economic security, or the health or welfare of the tribe." *Montana v.*  
17 *United States*, 450 U.S. 544, 566 (1981).

18 6.5 The Yakama Nation lawfully exercised its sovereign authority to  
19 regulate the Yakima Valley Farmworker Clinic's conduct on fee land within the  
20 Yakama Reservation by authorizing the operation of a 24-hour emergency cold  
21 weather shelter at the Yakima Valley Farmworker's Building in the City of  
22 Toppenish within the Yakama Reservation.

23 6.6 The City of Toppenish's actions to prevent the Yakama Nation from  
24 authorizing the Yakima Valley Farmworkers Clinic to host a 24-hour emergency  
25 cold weather shelter for enrolled Yakama Members (along with any other

1 individuals who need shelter services) unlawfully violate the Yakama Nation's  
 2 exercise of civil jurisdiction, thereby depriving the Yakama Nation of the full  
 3 benefit of its inherent sovereignty and the rights reserved in the Treaty of 1855.  
 4 The City of Toppenish's actions are invalid as a matter of federal law.

5 **7. REQUEST FOR RELIEF**

6 WHEREFORE, the Yakama Nation respectfully requests that this Court  
 7 order the following relief:

8 A. A declaratory judgment pursuant to 28 U.S.C. § 2201 declaring that:

9 (1) Plaintiff Yakama Nation has the inherent sovereign and Treaty-  
 10 reserved authority to regulate nonmember conduct on non-Indian owned fee lands  
 11 within the Yakama Reservation where the conduct threatens or has some direct  
 12 effect on the political integrity, the economic security, or the health or welfare of  
 13 the Tribe.

14 (2) Plaintiff Yakama Nation lawfully exercised its inherent  
 15 sovereign and Treaty-reserved authority to regulate nonmember conduct on non-  
 16 Indian owned fee lands within the Yakama Reservation when it authorized the  
 17 operation of a 24-hour emergency cold weather shelter at the Yakima Valley  
 18 Farmworkers Building.

19 (3) Defendant City of Toppenish's attempt to exercise regulatory  
 20 authority to counter the Yakama Nation's authorization of a 24-hour emergency  
 21 cold weather shelter at the Yakima Valley Farmworkers Building is pre-empted by  
 22 Yakama Nation laws, and has no legal effect.

23 (4) Defendant City of Toppenish violated the Yakama Nation's  
 24 inherent sovereign and Treaty-reserved rights by exercising regulatory authority to  
 25 counter the Yakama Nation's authorization of a 24-hour emergency cold weather

## shelter at the Yakima Valley Farmworkers Building

B. Both a preliminary and permanent injunction pursuant to 28 U.S.C. § 2202 enjoining Defendant City of Toppenish from exercising civil regulatory authority to prevent the Yakama Nation from authorizing nonmembers to host or operate a 24-hour emergency cold weather shelter on nonmember-owned fee lands within the Yakama Reservation.

C. Award the Yakama Nation such other relief as the Court deems just and appropriate.

Respectfully submitted this 20th day of November, 2024.

*s/Ethan Jones*

Ethan Jones, WSBA No. 46911  
Anthony Aronica, WSBA No. 54725  
YAKAMA NATION OFFICE OF LEGAL COUNSEL  
P.O. Box 151, 401 Fort Road  
Toppenish, WA 98948  
Telephone: (509) 865-7268  
Facsimile: (509) 865-4713  
[ethan@yakamanation-olc.org](mailto:ethan@yakamanation-olc.org)  
[anthony@yakamanation-olc.org](mailto:anthony@yakamanation-olc.org)

*Attorneys for the Confederated Tribes  
and Bands of the Yakama Nation*